IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicants	:	Brian LORA, et al.	Group Art Unit: 2166
Appln. No.	:	10/784,605	Examiner: Usmaan Saeed
Filed	:	February 23, 2004	
For	:	**SYSTEMS, METHODS AND COMPUTER PROGRAM PRODUCTS FOR MANAGING A PLURALITY OF REMOTELY LOCATED DATA STORAGE SYSTEMS**	

United States Patent and Trademark Office
Customer Service Window, Mail Stop Appeal Brief - Patents
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REPLY BRIEF UNDER 37 C.F.R. 41.41(a)(1)

Sir:

This Reply Brief is in response to the Examiner's Answer dated May 9, 2008, the period for reply extending until July 9, 2008. The Examiner maintains the grounds of rejection advanced in the final rejection of claims 1-60, and provides arguments in support thereof.

Appellants note this Reply Brief is being filed under 37 C.F.R. 41.41(a)(1) and is directed to the arguments presented in the Examiner's Answer, and therefore must be entered unless the final rejection is withdrawn in response to the instant Reply Brief. With regard to this Reply Brief, Appellants are addressing points made in the Examiner's Answer and not repeating the arguments set forth in the Appeal Brief.

If for any reason a necessary fee is required for consideration of the instant paper, authorization is hereby given to charge the fee for the Appeal Brief and any necessary extension of time fees to Deposit Account No. 09-0457.

POINTS OF ARGUMENT

First Issue

On page 27 of the Examiner's Answer, the Examiner submits that Goldstein shows a system for managing a plurality of remotely located, independent data storage systems. In support of this opinion, the Examiner argues that the transaction server in Goldstein is the same as the data storage system in the present invention because the transaction server stores transaction data.

Appellants submit that the Examiner's rationale is erroneous. As discussed in Goldstein, a "transactional server" is a multi-user system which responds to requests from users to perform one or more tasks or "transactions," such as viewing account information, placing an order, performing a search, or viewing and sending electronic mail. (Goldstein at ¶ 0085). The transactional server is remotely monitored by an operator using the reports server. The reports server may be implemented by a monitoring service provider, which stores and provides secure access to server status data for many different transactional servers and business entities. (Goldstein at ¶ 0076). Thus, it is the monitoring server provider, and not the transactional server, that stores information from the transactional server. As such, Appellants submit the transaction server does not store transaction data and is not a system for managing a plurality of remotely located, independent data storage systems. Accordingly, the rejection of claim 1 should be reversed.

Appellants further submit that it would be erroneous to equate the monitoring server provider in Goldstein to the data storage system of claim 1 as to do so would be contrary to the language of claim 1, which recites, in pertinent part:

> ... wherein the central monitoring system comprises a central data repository for data regarding the status of each of the remotely located, independent data storage systems...

More specifically, Goldstein explains that, in addition to storing information, the monitoring server provider may be used to implement the reports server. (Goldstein at ¶ 0076). The reports server, along with the controller and the agents, comprise the monitoring tool taught by Goldstein. (Goldstein at ¶ 0072). Thus, the monitoring server provider is used to implement part of the monitoring tool. However, there is no indication that the monitoring tool comprises the monitoring server provider. Therefore, Appellants submit that to equate the monitoring server provider to the data storage system would be erroneous. Accordingly, the rejection of claim 1 should be reversed.

Second Issue

The Examiner asserts, on pages 30 and 31 of the Examiner's Answer, that Giffords teaches collecting metadata regarding the data stored as Giffords includes performance metric data about different storage systems. However, Appellants submit the performance metric data in Giffords is not metadata because it does not define or describe data.

The performance metric data in Giffords includes information regarding storage operations of a respective storage system at a plurality of moments in

time. For example, the performance metric data may include raw activity data with respect to a storage area including input/output operations, sequential read or write operations, random read or write operations, microprocessor usage, usage of ports of respective storage systems in communication with host systems, etc. (Giffords at ¶ 0019). Thus, the performance metric data in Giffords is information about storage operations, however, the performance metric data is not metadata because the performance metric data does not define or describe data. Accordingly, the rejection of claim 1 should be reversed.

Third Issue

On page 41 of the Examiner's Answer, the Examiner asserts that Goldstein teaches the "each customer portal allows user control and configuration of a remotely located data storage system" feature of claim 14. To support this assertion, the Examiner asserts the handheld device in Goldstein is a customer portal, which provides the reports server with various user-configurable charts and graphs that allow the operator of the transactional server to view the performance data associated with each transaction. Appellants respectfully submit this statement is inaccurate.

Goldstein recites, in pertinent part:

> ... In the preferred embodiment, the performance data generated by the various agent computers is aggregated in a centralized database which is remotely accessible through a web-based reports server. *The reports server provides various user-configurable charts and graphs that allow the operator of the transactional server to view the performance data associated with each transaction.* (Goldstein at ¶ 0014 [emphasis added]).

Thus, as explained in Goldstein, various agent computers generate performance data that is aggregated in a centralized database. A reports server provides this information to users in a viewable format, e.g., via charts and graphs. Once provided, a user can, for example, view, compare, and configure the charts and graphs. Therefore, Goldstein merely provides users with viewable charts and graphs and allows users to configure the same, however, Goldstein does not allow users to control and configure a remotely located data storage system. Accordingly, the rejection of claim 14 should be reversed.

CONCLUSION

In summary, neither Goldstein nor Giffords show or suggest the features of claims 1-60. Therefore, the references do not provide evidence that would support a conclusion of obviousness under 35 U.S.C. §103(a). Appellants thus respectfully submit that the rejections of claims 1-60 are in error and that reversal is warranted in this case.

Respectfully submitted,

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